

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MATTHEW R. TONKIN et al.,

Plaintiffs,

vs.

CTX MORTGAGE CO., LLC et al.,

Defendants.

Case No.: 3:11-cv-00270-RCJ-VPC

ORDER

This case arises out of the foreclosure of Plaintiffs' mortgage. In 2011, Plaintiffs filed a nine-claim Complaint against eight Defendants. Defendants removed. Defendant Resi Whole Loan IV, LLC ("Resi") moved to intervene and to dismiss. The Court granted the motion to intervene but denied the motion to dismiss. Plaintiffs filed the Amended Complaint, listing claims for statutorily defective foreclosure under Nevada Revised Statutes section ("NRS") 107.080 and quiet title, and naming nine Defendants, all of whom except Resi have been dismissed voluntarily or for failure to timely serve them. On May 17, 2013, the Court denied Resi's motion for summary judgment, because there remained a genuine issue of material fact as to when Resi obtained ownership of the promissory note that was dispositive to the propriety of the foreclosure under NRS 107.080. The Court noted that because there was no genuine issue of

1 material fact that Resi in fact owned the note now, Resi could simply restart the foreclosure
2 process if it wished to.

3 Plaintiffs have taken no action to prosecute the case since May 17, 2013, and Resi has
4 recorded a rescission of the potentially defective notice of default. Resi therefore asks the Court
5 to dismiss the case. Plaintiffs have filed a Notice of Non-Opposition (ECF No. 65)
6 acknowledging the rescission.

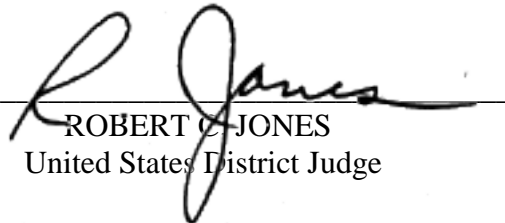
7 **CONCLUSION**

8 IT IS HEREBY ORDERED that the Motion to Dismiss (ECF No. 64) is GRANTED.

9 IT IS FURTHER ORDERED that the Clerk shall enter judgment and close the case.

10 IT IS SO ORDERED.

11 Dated: This 28th day of April, 2014.

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14 ROBERT C. JONES
United States District Judge
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